

## Message Text

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PAGE 01 STATE 171013  
ORIGIN EUR-08

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TO AMEMBASSY WARSAW IMMEDIATE

C O N F I D E N T I A L STATE 171013

STADIS/////////  
LIMDIS, FOR ARMITAGE FROM EUR/EE (SCHMIDT)

E.O. 11652: GDS

TAGS: ETRD, PL

SUBJECT: POLISH GOLF CARTS

REF: WARSAW 5050

1. AS AGREED ON YOUR DEPARTURE LAST WEEK, FOLLOWING IS A  
REPORT FOR YOUR BACKGROUND ON PRESENT STATUS OF OUR EFFORTS.

2. WE MET WITH EB, L, AND NSC REPS ON JULY 18 TO CON-  
SIDER FURTHER OUR POSSIBLE ALTERNATIVES, I.E., (A) REQUEST  
ITC TO MODIFY OR REVOKE ITS FINDING OF INJURY, (B)  
RECOMMEND THAT SECRETARY OF TREASURY REVOKE FINDING OF  
DUMPING, OR (C) SEARCH UNTIL WE FIND A "SIMILAR" PRODUCT  
BEING MADE IN A THIRD COUNTRY, OTHER THAN MARATHON VEHI-  
CLES IN CANADA, FROM WHICH FAIR VALUE COULD BE ESTABLISHED  
AND THUS AVOID HAVING TO RESORT TO THE U.S. MANUFACTURER'S  
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CONFIDENTIAL

PAGE 02 STATE 171013

PRICE FOR PURPOSES OF COMPARISON. (THESE OPTIONS ARE  
SPELLED OUT A BIT MORE IN THE DRAFT CABLE WE DID LAST  
WEEK WHICH YOU HAVE.) WE HAVE NOT TOTALLY RULED OUT  
OPTION A UNTIL EB HAS COMPLETED ITS INFORMAL SOUNDINGS  
WITH ITC STAFF, BUT IT STILL APPEARS THAT THIS IS A  
VERY RISKY ROUTE, SINCE IT'S VIRTUALLY IMPOSSIBLE TO  
KNOW HOW THE COMMISSIONERS WILL VOTE ON A GIVEN ISSUE.

FURTHERMORE, IT IS QUESTIONABLE WHETHER A GOOD CASE COULD BE MADE THAT INJURY NO LONGER EXISTS; IT WOULD HAVE TO BE BASED MORE ON A FINDING OF NO FUTURE INJURY, IF THAT INDEED IS POSSIBLE. OPTION C ALSO SEEMS HIGHLY UNLIKELY, GIVEN PAST EFFORTS BY TREASURY, CUSTOMS, AND POLES. I CONTINUE TO BELIEVE THAT OUR BEST CHANCE IS OPTION B, ALTHOUGH IT ENTAILS A NUMBER OF SERIOUS RISKS AND OUR LAWYERS, AS WELL AS TREASURY'S, THINK IT WOULD REQUIRE A GOOD DEAL OF STRETCHING OF TREASURY'S EXISTING AUTHORITY UNDER 19 CFR 153.44(A) TO REVOKE THE FINDING. AND, IT WOULD BE ESSENTIAL THAT THE POLES AGREE TO SELL AT THE U.S. MANUFACTURERS' PRICE AND THAT, VIA SOUNDINGS MADE BY TREASURY, THE U.S. MANUFACTURERS WOULD BE WILLING TO ACQUIESE IN SUCH AN ARRANGEMENT. WE ARE DRAFTING A MEMO FOR VANCE AND HOPEFULLY KREBS TO SEND TO BLUMENTHAL RECOMMENDING OPTION C, MAKING THE CASE ON FOREIGN POLICY, TRADE POLICY, AND EQUITY GROUNDS. WE HOPE TO HAVE IT GO TO TREASURY IN THE NEXT FEW DAYS, BUT YOU KNOW WHAT THAT ENTAILS. IN THE MEANTIME, ON DICK VINE'S ADVICE, WE ARE ATTEMPTING TO HAVE DICK COOPER SEND A NOTE TO TONY SOLOMON, REFERRING TO THE HORMATS-SOLOMON MEMO AND ASKING HIM TO WEIGH IN WITH TREASURY DEPUTY SECRETARY CARSWELL, WHO, I LEARNED, IS NOW AWARE OF THE PROBLEM AS A RESULT OF RECENT WARSAW CABLES.

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PAGE 03 STATE 171013

3. TREASURY GENERAL COUNSEL-DESIGNATE MUNDHEIM RETURNS FROM PARIS NEXT WEEK AND SUCHMAN IS DOING A DETAILED MEMO FOR HIM, IN EFFECT TURNING OVER THE PROBLEM TO HIM IN LIGHT OF PETER'S DEPARTURE. (HIS REPLACEMENT, PETER EHRENHAFT, WHO IS KNOWN--GEORGE BOUTIN SAYS VERY FAVORABLY TO EMBASSY WARSAW FROM PATENT DELEGATION TRIP--COMES ON BOARD SEPTEMBER FIRST.)

4. I BELIEVE IT ESSENTIAL THAT TRAMPCZYNSKI NOT TAKE UP THE CASE WITH MUNDHEIM OR OTHERS AT TREASURY UNTIL AFTER THE STATE/COMMERCE MEMO IS RECEIVED AND PERHAPS AFTER ANOTHER MESSAGE IS PASSED TO TREASURY FROM THE NSC. BASED ON MY PRIVATE TALK WITH TRAMPCZYNSKI TODAY AT THE NATIONAL DAY RECEPTION THIS IS AGREED. ALTHOUGH I OF COURSE TOLD HIM IN ONLY THE MOST VAGUE TERMS THAT "WE WERE WORKING ON SOMETHING" WHICH HAS ONLY THE FAINTEST PROSPECTS, HE AGREED TO NOT TRY TO SEE TREASURY UNTIL WE THOUGHT THE TIME WAS RIPE. IN FACT HE TOLD ME HE DID NOT KNOW WHAT HE WOULD SAY TO TREASURY AT THIS POINT ANYWAY AND THAT HE HAD BEEN INSTRUCTED NOT RPT NOT TO GO IN UNTIL AFTER SPASOWSKI

HAD A CHANCE TO DISCUSS THE PROBLEM WITH YOU AND AMBASSADOR DAVIES IN WARSAW. I DID STRESS THAT IF ANYTHING WERE TO WORK, IT WOULD BE ESSENTIAL FOR THE POLISH SIDE TO WORK WITH US ON A SOLUTION, WHICH THEY REALLY HADN'T DONE UP TO NOW. ALSO, WITHOUT TELLING HIM WHY, I ATTEMPTED TO SOUND HIM OUT ON POLISH WILLINGNESS TO MATCH THE U.S. MANUFACTURER'S PRICE. HE SEEMED DUBIOUS, ESPECIALLY IF IT WOULD MEAN GOING UP TO \$1,200 OR \$1,250, BUT PROMISED TO INVESTIGATE FURTHER.

5. I CONTINUE TO BELIEVE THAT IT WOULD BE BEST TO SAY AS LITTLE AS POSSIBLE TO SPASOWSKI ET AL. ABOUT CONFIDENTIAL

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PAGE 04 STATE 171013

WHAT WE MIGHT OR MIGHT NOT BE ABLE TO DO. THREE POINTS WHICH IT WOULD BE VERY HELPFUL FOR YOU TO MAKE, HOWEVER, ARE THE FOLLOWING:

--- (A) WE THINK IT IS GOOD THAT AMBASSADOR TRAMPCZYNSKI IS HANDLING THE PROBLEM PERSONALLY AT THIS POINT (RATHER THAN HAVING A TEAM COME FROM WARSAW). HE SHOULD CONTINUE TO COORDINATE HIS MOVES CLOSELY WITH US.

--- (B) IF ANY SOLUTION IS POSSIBLE, IT WILL BE NECESSARY FOR POLES TO WORK WITH US (AND LISTEN TO US TOO, FOR THAT MATTER).

--- (C) POLES SHOULD BEGIN THINKING AT THIS POINT ABOUT ATTEMPTING TO REACH COMPREHENSIVE SOLUTION WHICH WOULD PERMIT FURTHER SALES RATHER THAN FOCUSING ON VARIOUS SMALLER ELEMENTS (E.G., FURTHER ATTEMPTS TO REDUCE AMOUNT OF DUTIES PAYABLE IN PAST) SINCE NATURE OF PROCESS, WITH PRESENTATION OF EVIDENCE AND COUNTER-EVIDENCE RE MARATHON PRICES, COSTS, ETC. WILL ONLY FRUITLESSLY PROLONG THE AGONY. WHILE WE EXPECT THAT HIGH LEVEL ATTENTION WILL BE DEVOTED TO THE CENTRAL TRADE POLICY ELEMENTS OF THE PROBLEM, EFFECT OF SUCH ATTENTION WILL BE DILUTED BY CONTINUING TO RAISE LESSER ASPECTS. HOPEFULLY WE WILL HAVE SOMETHING MORE TO SAY TO THEM ON THIS SCORE BEFORE LONG.

6. WE WILL DO OUR BEST TO GET ANSWER ON QUESTION RAISED IN PARA 3 REFTEL SO THAT YOU HAVE IT BY OPENING OF BUSINESS WARSAW TIME ON JULY 25. VANCE

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